UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/C.12/1/Add.16
12 December 1997

Original: ENGLISH

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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

DOMINICAN REPUBLIC

1. The Committee considered the second periodic report of the Dominican Republic on the rights covered by articles 1 to 15 of the Covenant (E/1990/6/Add.7) at its 29th to 31st meetings, on 18 and 19 November 1997, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the resumption of the dialogue with the Dominican Republic through its second periodic report. It also welcomes the submission by the State party of comprehensive written answers to its list of issues (E/C.12/1995/LQ.7), although it regrets that the second part of these answers was submitted too late for translation. Furthermore, the Committee welcomes the appearance before it of an expert and a high-level delegation from the capital, which allowed for a fruitful and constructive dialogue to be conducted and many answers and clarifications to questions raised and comments made by its members to be obtained.

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* At its 51st meeting, on 3 December 1997.

3. The Committee wishes to express its appreciation to the Dominican Republic for its acceptance, in April 1997, of a mission composed of two members of the Committee to be conducted in the country, in accordance with the offers, contained in repeated decisions by the Committee and endorsed by the Economic and Social Council in its decisions 1992/261 and 1993/295. It also expresses its deep satisfaction to the State party for its responsiveness to and cooperation with the mission, which took place from 19 to 27 September 1997. The Committee in this respect notes with appreciation that government officials at the highest levels of the State, numerous non-governmental organizations and the United Nations Development Programme provided its delegation with technical and logistical assistance, as well as with valuable information on the right to housing and the situation of Haitian workers in the Dominican Republic, which were the subjects identified by the Committee as the mission's mandate, and more generally on the implementation of the Covenant in law and in practice.

B. Positive aspects

4. The independence and effective functioning of the judiciary are necessary elements in the protection of economic, social and cultural rights. Thus, with respect to the concerns it expressed in paragraph 16 of its preliminary concluding observations (E/C.12/1/Add.6), the Committee notes with appreciation the measures taken to combat the problem of corruption of public officials, including judges, and in particular the increase in the salaries of government officials and judges. Furthermore, the Committee notes that the procedure for nominating judges to the new Supreme Court has been made public and transparent, with the objective of guaranteeing the impartiality of the judiciary and its independence from the executive.

5. The Committee also notes with appreciation that a number of measures have been taken to improve the situation of women, in particular measures allowing them to own property and to benefit from the medical insurance of their partners in case of de facto marriages and from land distribution in the framework of the agrarian reform. The adoption of a Women's Code is also welcomed, as are the activities and programmes of the General Directorate for the Advancement of Women. Furthermore, the Committee takes note of information concerning the setting up of a State Secretariat for Women's Affairs and the proposed establishment of special courts to deal specifically with matters involving violence against women and children, including domestic violence.

6. The Committee welcomes the establishment of a bilateral commission by the Governments of the Dominican Republic and Haiti, as well as the agreement signed with the Government of Haiti concerning the granting of temporary work permits for Haitian seasonal sugar cane cutters during the next harvest, in order to give them a legal status and to protect them from the exploitation related to the lack of such status.

7. With respect to the right to adequate housing under article 11 of the Covenant, the Committee notes with appreciation the policy set up and applied by the new Government, which involves giving priority to low-income groups and carrying out housing projects in consultation with the communities concerned. The Committee notes that this policy differs from previous governmental

policies which gave preference to major ornamental public works, including the Christopher Columbus lighthouse, which unnecessarily caused the displacement of large numbers of people, and to the authoritarian planning of housing projects. The Committee also notes with appreciation the holding in 1996 of a national conference for a "New Policy in the Housing Sector", organized by the National Housing Institute and the United Nations Development Programme as a follow-up to the Habitat II conference, as well as the envisaged setting-up of a State Secretariat on Housing to coordinate all government activities in the field of housing.

8. Also concerning the right to housing, the Committee notes among the steps taken by the Government in this field the following: the commitment of the Government to suspend all forced evictions by public organs and to adopt a policy of providing adequate alternative housing to persons evicted or displaced persons; the adoption of Decree 443/96, which repeals Decree 358/91, and the consequent removal of a military presence from the La Ciénaga and Los Guandules areas in the centre of Santo Domingo; and the signing of relocation agreements between the Government and some 681 families living in the Los Alcarrizos shanty town and the 209 evicted families who occupied three churches for a year.

9. With respect to the concern expressed in paragraph 20 of its preliminary concluding observations (E/C.12/1/Add.6), the Committee notes that measures have been taken to improve the prison conditions with respect to economic, social and cultural rights in the Dominican Republic, including, inter alia, the provision of meals free of charge - including during weekends - to inmates and the carrying out of a prison reform programme with particular emphasis on the improvement of the regime governing visits and on rehabilitation through education programmes.

10. The Committee notes with satisfaction the new emphasis which the new Government has placed on education by increasing, by 14.5 per cent, the budget allocation to education in 1996. It also notes that measures have been taken to improve the level of education in public schools by increasing teachers' salaries.

C. Factors and difficulties impeding the implementation of the Covenant

11. The Committee, recalling its preliminary concluding observations (E/C.12/1/Add.6, para. 9) concerning the slow evolution towards democracy, notes that positive and concrete steps have recently been taken to strengthen democratic institutions in the Dominican Republic. However, it notes that the consequences of decades of neglect or ineffective promotion and protection by previous Governments of the economic, social and cultural rights of the population as a whole, and those of vulnerable groups in particular, cannot easily be overcome. The Committee acknowledges that these factors continue to constitute impediments to the full implementation of the rights enshrined in the Covenant.

12. The Committee also notes that since the mid-1980s, the economic situation in the Dominican Republic has deteriorated at a rapid pace, mainly because of the deficient management of the country's economy and of the public

finances by the previous administration, a deterioration whose consequences include the heavy burden of the external debt on the national economy, the need for structural adjustment programmes, the high rate of inflation, the large-scale emigration of skilled workers, the growing poverty, the unequal distribution of wealth within the population and the deepening gap between the rich and the poor. Such a situation creates difficulties which hamper the full implementation of the Covenant in the Dominican Republic.

D. Principal subjects of concern

13. The Committee expresses its regret at the absence of statistical information on the economic, social and cultural situation in the Dominican Republic both in the report and in the dialogue with the delegation. In this respect, the Committee notes that such information is not only useful but necessary for it to assess the real situation of implementation, with regard to all groups in the society, of the economic, social and cultural rights enshrined in the Covenant.

14. The Committee notes the presence of racial discrimination in the Dominican Republic, although this seems to be denied by the authorities, and it emphasizes that in order to combat and prevent racial discrimination in the enjoyment of economic, social and cultural rights, its existence must be recognized by the authorities. Without such recognition, the Committee stresses that no effective anti-discrimination policies may be put in place. In this respect, the Committee expresses the view that the existence of racial discrimination does not necessarily entail institutionalized or legal discrimination.

15. While noting that a number of positive measures have been taken by the authorities to promote gender equality and to protect women from discrimination, the Committee remains concerned that women do not fully enjoy their economic, social and cultural rights under the Covenant. In this respect, the Committee reiterates the concerns it expressed in paragraph 22 of its preliminary concluding observations (E/C.12/1/Add.6), with particular reference to the persistence of a traditional male-dominated society detrimental to gender equality, to the lack of protection afforded to women workers who are victims of discrimination in employment or arbitrary dismissal owing to pregnancy, to the lack of family planning services, to the high maternal mortality rate, to unequal pay between women and men, and to the absence of legal recognition of de facto marriages.

16. The Committee recalls the concerns it expressed in 1996 (E/C.12/1/Add.6, para. 18) with respect to the large-scale emigration of Dominicans, many of whom are skilled workers, and notes that improved enjoyment of economic, social and cultural rights can help reduce incentives for such people to emigrate.

17. Furthermore, the Committee is still preoccupied by the situation of Haitian illegal workers and by the situation of their children. It notes that approximately 500,000-600,000 Haitian illegal workers reside in the Dominican Republic, some of them for one or two generations, without any legal status and any protection of their economic, social and cultural rights. In this respect, the Committee is particularly concerned about the situation of

the children who, due to the restrictive interpretation of article 11 of the Constitution by the authorities, do not receive Dominican nationality on the grounds that they are children born of foreigners in transit. These children are thus denied their most basic social rights, such as the rights to education and health care. Moreover, the Committee notes with concern that until now measures have not been taken to improve the overall situation of Haitian illegal workers by the regularizing of their status and that of their children.

18. The Committee also reiterates its concerns about the inadequate living conditions in the bateyes (see E/C.12/1/Add.6, para. 13), and the inadequacy of the measures taken to date by the authorities to remedy the situation.

19. The Committee notes that despite the recent steps taken to raise the minimum wage in the latest Labour Management Agreement, the minimum wage is yet not sufficient to ensure a decent living for workers and their families, in accordance with article 7 (a) (ii) of the Covenant.

20. The Committee further expresses concern about reports of extremely unsatisfactory working conditions in the free trade zones. The Committee is concerned that workers in the free trade zones are allegedly discouraged from joining or forming trade unions and that the regulations concerning the right to strike in the Labour Code are not complied with by employers.

21. The Committee notes with concern that, at present, the national social security scheme covers only workers employed in the formal sector. Although it notes that new legislation on social security which provides for universal coverage is under study, the Committee expresses its concern about the non-application of article 9 of the Covenant to self-employed workers, including small farmers, and their families.

22. With respect to article 10 of the Covenant, the Committee expresses its concern about the situation of children in the Dominican Republic and, in particular, about reports received on the occurrence of child labour and child exploitation, including sexual exploitation, about the increasing number of street children, the low rate of school enrolment, the high rate of infant mortality and the high number of pregnancies among school-age females. Furthermore, the Committee expresses its concern about the reported prevalence of violence against women and children within the family.

23. Although the Committee welcomes the drafting of a plan by the National Council for Urban Affairs to ensure access to safe drinking water, it notes that this plan is limited to urban areas and that much remains to be done in order to ensure such access for the rural population and for all those living in deprived urban areas. In this regard, the Committee recalls the concerns it expressed in the past (E/C.12/1/Add.6, para. 24).

24. With respect to the right to housing, the Committee notes that the positive measures and programmes undertaken by the Government may be hampered by a lack of resources allocated by the authorities at the national and local levels to alleviate the many problems associated with the lack of housing; by the dispersion of the many organs and institutions set up to deal with housing and the lack of coordination between them; by the failure of the central

authorities to delegate more powers to local communities; and by the priority and preference given to the alleviation of the problems in urban areas to the detriment of rural areas.

25. With respect to the agrarian reform and the distribution of urban and rural lands, the Committee expresses regret at the lack of information concerning land survey, delivery of land titles and land allocation. While noting the information that the agrarian reform is supported by the Ministry of Agriculture and the Agricultural Bank, it is concerned about the lack of progress to date in this respect owing to delays in the completion of the land survey.

26. Furthermore, the Committee notes that forced evictions from private land still occur, and that the authorities have not yet taken the necessary measures to address this problem.

27. With respect to the right to health under article 12 of the Covenant, the Committee is concerned about the lack of information on the situation of the elderly, disabled persons, and HIV-positive persons and persons with AIDS. With respect to the latter, the Committee notes that, according to the World Health Organization, the number of AIDS cases has increased from 133 in 1993 to 574 in 1996 for women and from 256 in 1993 to 1,050 in 1996 for men. The Committee also notes that prevention campaigns carried out in the Dominican Republic are insufficient in addressing the appropriate ways and means available to combat the transmission of the virus. It further notes the persistence of sex tourism in resort areas, sometimes involving minors, which is one of the causes of the spread of AIDS, although it recognizes that coercive measures have been taken by the authorities against persons involved as local agents in such exploitation.

E. Suggestions and recommendations

28. The Committee recommends that measures be taken by the authorities, notably at the fiscal and social levels, to address the problem of the inequitable distribution of wealth among the population in order to combat poverty.

29. With respect to the Committee's concern, expressed in paragraph 16 of its preliminary concluding observations (E/C.12/1/Add.6), the Committee recommends that measures to combat the arbitrariness and corruption of some judges and public officials be pursued. In particular, the Committee recommends that information on the means available, if any, to challenge the discriminatory, arbitrary and unjust application of a law, an executive decree or a court decree be provided in the State party's next periodic report.

30. The Committee recommends that measures be taken to gather systematically quantitative and qualitative data, disaggregated in accordance with the criteria used by the United Nations and its specialized agencies, on all rights covered by the Covenant. In this regard, it suggests that cooperation be requested from various agencies, such as UNDP, WHO, ILO and UNICEF, with a view to assessing and evaluating progress achieved, identifying prevailing difficulties and setting priorities for future action.

31. The Committee recommends that concrete and appropriate measures be taken, such as information and education campaigns and the reform of the criminal law, in order to penalize acts of racial discrimination by public officials and private persons, and to prevent and combat acts of racial discrimination.

32. The Committee also recommends that the Government pursue its policies designed to achieve full equality between men and women, in all areas of economic, social and cultural life. In particular, a thorough review of the domestic legislation should be undertaken with a view to eliminating any remaining discriminatory legal provisions, especially with respect to the labour, family, criminal, civil and social security laws; specific remedies should be made available to women victims of sexual discrimination; and information and education campaigns should be carried out. Positive measures should also be taken to promote the participation of women, on an equal basis with men, in public life, on the labour market and with respect to social and cultural activities.

33. The Committee also recommends that the State party take effective measures at the educational and socio-economic levels in order to fulfil its obligations under the Covenant, with a view to stemming the outflow of skilled workers from the Dominican Republic.

34. The Committee urges the State party to take all necessary measures to ensure that Haitian immigrants in the Dominican Republic enjoy their economic, social and cultural rights fully and without discrimination. In this regard, the Committee expresses the view that the regularization of the situation of these illegal residents, through the delivery of residence permits or naturalization, is necessary. Furthermore, the Committee recommends that the principle of jus soli under article 11 of the Constitution be applied to the children of Haitian residents without delay.

35. The Committee also urges the Government to adopt positive measures to improve the living conditions in the bateyes. To this end, the Committee recommends that the legal status of the bateyes be modified and their relationships with municipalities be improved, and that sugar cane companies be required to provide inhabitants of the bateyes with basic facilities, such as water and electricity, and with health and social services.

36. With respect to the State party's obligations under article 7 (a) (ii) of the Covenant, the Committee recommends that the minimum wage be reviewed without delay and periodically adjusted in order to provide workers with a "decent living for themselves and their families in accordance with the provisions of the Covenant". It also recommends that all sectors of activity be covered by the regulation of the minimum wage, including the sugar cane industry, and that inspection mechanisms be set up and given the means to conduct surveys in this area.

37. The Committee further recommends that workers in the free trade zones be allowed to form and join trade unions, that their right to strike be

acknowledged, that the minimum standard with regard to working conditions be respected, and that inspection mechanisms be set up with full freedom to carry out their tasks in these zones.

38. The Committee urges the Government to continue its review of the Social Security Law and, in this respect, it lays emphasis on the obligation for universal coverage under article 9 of the Covenant.

39. The Committee recommends that the situation of children in the Dominican Republic be closely monitored by the authorities, and that all necessary means be deployed to ensure that all children fully enjoy the rights under the Covenant, special attention being given to abandoned children, street children, exploited children, working children and teenage mothers. The Committee also recommends that the necessary measures be taken to combat violence against women and children in the family.

40. The Committee calls on the Government to pursue and intensify its efforts to ensure that safe drinking water is made available to the rural population and all those living in deprived urban areas.

41. The Committee also recommends that the Government's efforts be pursued and intensified in order to fully and effectively address the problems related to housing in the Dominican Republic. In this respect, the Committee stresses the need for increased resources, both for construction and rehabilitation and for the relocation of evicted and displaced communities; for decentralization and greater autonomy of local authorities in this field; and for effective coordination of the activities undertaken by all the competent organs. The Committee also draws the attention of the Government to the need to complete the process of land surveys in order to issue title deeds to regularize the ownership of land by much of the population, in rural as well as in urban areas. In this regard, the Committee encourages action to be taken to set up the State Secretariat for Housing, in order to ensure the effective coordination of the agencies concerned and the implementation of housing policies.

42. The Committee also recommends that steps be taken without delay to protect the population from forced evictions by private owners and that, in this respect, the Committee's General Comment No. 7 be duly taken into account.

43. The Committee draws the attention of the State party to the report of the mission to the Dominican Republic, adopted by the Committee on 3 December 1997. This report focuses especially on the right to housing, as well as on other matters. The Committee calls upon the State party to take the recommendations contained therein fully into account.

44. With respect to the right to health, the Committee recommends that full and concrete information on the situation of the elderly, persons with disabilities, and persons who are HIV positive or have AIDS be provided in the State party's next periodic report. With regard to AIDS, the Committee stresses the need for the State party to adopt new adequate legislative and social measures. In particular, the Committee recommends the launching of a

specific and explicit information campaign on HIV/AIDS, its causes and prevention measures. The Committee suggests that coordination with WHO and the Joint United Nations Programme on HIV/AIDS (UNAIDS) be set up.

45. Finally, the Committee recommends that the concerns expressed in the present concluding observations, as well as the issues raised during the discussion of the second periodic report which remained unanswered, be addressed in the State party's third periodic report to be submitted by 30 June 1999, and it urges the State party to disseminate widely the present concluding observations adopted by the Committee following its consideration of the State party's second periodic report.